

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.1796 of 2017 (O&M)

Date of Decision :06.09.2018

State of Haryana and others

....Appellants

Versus

Krishna Devi

....Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Anil Mehta, DAG, Haryana
for the appellants.

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 30.03.2017 but filed after a delay of 115 days. The reasons for delay have been given in paras 2 to 7 of the application under Section 5 of the Limitation Act, which we consider appropriate to extract herebelow :-

- “2. That the writ petition was decided on 30.03.2017 and thereafter uncertified copy was downloaded from the website of the Hon'ble High Court on 13.04.2017 and the case was put up for opinion before the law officer who conducted the case. The law officer who conducted the case tendered his opinion on 23.05.2017 and the same was marked to some other law officer for re-examination of the case on 26.05.2017. Accordingly the concerned law officer to whom the case was marked for re-examination tendered his opinion on 19.06.2017 to which the Ld.Advocate General, Haryana agreed on 29.06.2017 opining it as a fit case for filing LPA.
3. That thereafter, the intimation was received from O/o Advocate General, Haryana vide memo No.36314-17

dated 7.7.2017 opining it as a fit case for filing LPA and also intimated to O/o Legal Remembrancer, Haryana.

4. That the intimation was received in the O/o applicant on 17.07.2017 and accordingly the matter was pursued with the O/o Legal Remembrancer, Haryana for issuance of instructions to the O/o Advocate General, Haryana for filing the LPA.
5. That the O/o Legal Remembrancer, Haryana issued the instructions vide memo No.15037 dated 25.7.2017 which was received in the O/o Advocate General, Haryana on 28.7.2017 and the O/o applicant also collected the copy from the O/o Legal Remembrancer, Haryana on 9.8.2017.
6. That thereafter the CM of condonation of delay, stay, grounds of appeal were prepared and the same was sent to O/o Advocate General, Haryana for vetting on 11.8.2017. Accordingly, the same were vetted on 11.8.2017 itself
7. That thereafter the complete paperbook of LPA was prepared and submitted in the O/o Advocate General, Haryana for filing in the Registrar, High Court.”

The aforesaid would reveal that after the judgment was rendered on 30.03.2017, the office of Advocate General, Haryana downloaded uncertified copy of the same from the High Court website on 13.04.2017 and the concerned law officer tendered his opinion on 23.05.2017. The case was re-examined by another law officer and he also tendered his opinion on 19.06.2017. The learned Advocate General endorsed the same on 29.06.2017 finding it a fit case for filing appeal. After receiving the intimation from the office of Advocate General on 17.7.2017 the matter was pursued with the Legal Remembrancer, Haryana who issued instructions dated 25.7.2017, received in the office of Advocate General on 28.07.2017.

Thereafter grounds of appeal and applications for condonation of delay as well stay were prepared and sent to the office of Advocate General, Haryana for vetting, which was done on 11.8.2017 and finally the appeal was filed on 16.08.2017 with a delay of 115 days.

The facts noted above as a justification for condonation of delay cannot be accepted. Most of the delay has either been caused in the office of Advocate General or in the department itself.

The State and its functionaries having ample legal assistance cannot be permitted such a laxity in approaching the Court. We also cannot shut our eyes to such callousness and treat the State or its functionaries differently than a common litigant while dealing with matters of limitation to grant indulgence by overlooking such procedural delays and we would not be unjustified to expect some alertness at the hands of a litigant who wishes to approach this Court in no matter what proceedings.

The Hon'ble Supreme Court in *Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr.* **2012(2) S.C.T.269** has observed as under :

“13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for

Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

Keeping in view the aforesaid, we are of the view that the explanation for delay offered by the appellants is not worth acceptance.

Consequently, the appeal is dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

06.09.2018
dss

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No